



**City of College Park
Department of Planning & Community Development
Staff Report**

Reviewer: Miriam Bader

Date: October 29, 2021

A. APPEAL INFORMATION

Appeal No.:	CEO-2021-02
Hearing Date:	November 4, 2021
Petitioner:	Beatriz Gamez
Address:	5002 Indian Lane
Subdivision:	Daniels Park, Lots 18-21, Block 19
Neighborhood Association:	North College Park Community Association
Zoning:	R-55
Purpose of Request:	Validation of a 6-foot-high stockade fence installed in the front yard.
Request:	Height variances to retain a 6-foot-high stockade fence in the front yard.
Requirements:	<ul style="list-style-type: none">a. Prince George's County Zoning Ordinance, Section 27-420 (a) prohibits fences in the front yard that exceed a height of four (4) feet for lots consisting of one acre or less.b. The City Fence Ordinance, Chapter 87, Section 23, paragraph C. prohibits fences in the front yard that exceed three feet in height and requires that fences be constructed of a material that incorporates openness such as wrought iron, split rail, or picket.
Specific Requests:	<ul style="list-style-type: none">1. A 2-foot height variance from the Prince George's County Zoning Ordinance Section 27-420 (a) to permit a total height of 6-feet.

2. A 3-foot height variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C of the City Code to permit a total height of 6-feet.
3. A fence material variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C. of the City Code to permit a stockade front yard fence that does not incorporate openness.

Property Characteristics:

1. The property is located on the north side of Indian Lane east of Rhode Island Avenue.
2. The area of the property is 6,369 square feet.
3. The property is a quadrangle shape.
4. The front (southwestern) property line measures 100 feet; the rear (northeastern) property line measures 103.6 feet; the side (western) property line measures 50.15 feet; and the other side (eastern) property line measures approximately 77.25.
5. The property is improved with a 1.5 story single-family home, a shed and a patio that wraps around the side and rear side of the house.
6. The applicant started to install a 6-foot high, solid, stockade fence running 25-feet along Indian Lane and then along the entire eastern side property line. The stated reason for the fence is for security and to protect two large dogs. The applicant received a permit from the County to install a more extensive 6-foot fence on August 9, 2021 (Permit 26822-2021-0). This County permit was granted in error.
7. A six-foot stockade fence in the rear yard can be constructed without a variance.
8. A Stop-Work Order and Notice of Violation from the City was posted on September 21, 2021, for failure to obtain a City permit.

Neighborhood
Characteristics:

1. The surrounding neighborhood is single-family residential.
2. There are three other 6-foot high, stockade fences located in the neighborhood:
-9325 Rhode Island Ave.-Fence Variance granted in 2008.

- 5003 Eutaw Place-Fence Variance granted in 2020.
- 5000 Indian Lane-Fence permit granted in 1987, prior to the County front yard fence regulations being enacted in 2008.

All three of these perimeter fences are for triangular shaped corner lots with two front yards per the County Code.

B. COLLEGE PARK CRITERIA FOR GRANTING A FENCE VARIANCE

- 1. The property has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions that would support the request for a variance**

This criterion requires a finding that a specific parcel of land has exceptional narrowness, shallowness or shape, exceptional topographic conditions or other extraordinary situation or condition. Thus the “extraordinary situation” must relate to the land itself and would not cover a mistake in the permitting process by another entity. There is nothing unusual about the size or shape of this parcel that would prevent the construction of a back yard fence that would be capable of restraining large dogs.

- 2. Denial of the variance will result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship to the owner.**

Denial of the variance will not result in a peculiar and unusual practical difficulty or undue hardship to the owner. The applicant states in her application that she is requesting the 6-foot stockade fence for privacy, safety, and security and to protect her two large dogs from other hostile dogs. However, as noted above, the rear yard is available to be enclosed for the Applicant’s two dogs.

- 3. Granting the variance will not impair the intent, purpose, or integrity of the Fence Ordinance.**

Granting this variance will adversely impact the intent, purpose, and integrity of the City’s Fence Ordinance. The Fence Ordinance was enacted to preserve and protect the character of residential neighborhoods in the City. The requested height, and material variances are not the minimum necessary and are contrary to the intent of the Fence Ordinance.

- 4. The variance is consistent with the design guidelines adopted for the historic District, if applicable.**

Not applicable.

- 5. The variance will not adversely affect the public health, safety, welfare or comfort.**

Granting the variance will adversely affect the public safety and comfort by limiting visibility for pedestrians and motorists travelling down Indian Lane. It creates a physical and visual barrier that separates the property's front yard from the rest of the neighborhood. A lower and more open fence would help lessen this effect.

6. **The fence for which a variance is requested incorporates openness and visibility as much as is practical, provided however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood.**

The proposed fence, a 6-foot high, solid, wooden, stockade fence, does not incorporate openness and visibility.

7. **The proposed construction, including setbacks, is characteristic of and consistent with the surrounding neighborhood. In neighborhoods where chain link is a characteristic material, alternate materials incorporating openness and visibility may be permitted.**

While there are some 6-foot-high fences in the area, these are in the rear yard or the front yard of a corner lot (which by County law has two "front yards." This property is not a corner lot. The proposed fence is not consistent with the height or materials of front yard fences in the surrounding neighborhood.

C. RECOMMENDATION

Staff recommends that the height and material variances be denied as the criteria for meeting these variances have not been met.

D. EXHIBITS

- 1a. Application
- 1b. Photos of Other Neighborhood Fences Taken by Applicant
- 2. Site Plan
- 3. Violation Notice
- 4. Vicinity Map
- 5. Zoning and Building Footprint Map
- 6. Staff Photos
- 7a. Campbell Opposition Letter
- 7b. Simpson Support Letter
- 7c. Clark Support Letter
- 7d. Santos Support Letter
- 7e. Location Map of Properties that Support and Oppose Fence



EXHIBIT 1a

City of College Park Advisory Planning Commission
8400 Baltimore Avenue, Suite 375
• College Park, MD 20740
Phone: 240-487-3538 • www.collegeparkmd.gov

paid michelle
10/7/11

APPLICATION FOR VARIANCE FROM THE STRICT APPLICATION OF THE CITY OF COLLEGE PARK BUILDING CODE

Instructions: Please complete and mail to the address above or e-mail to Miriam Bader at mbader@collegeparkmd.gov. All required information must be provided before an application is accepted for processing. An appointment with the City Planning Staff must be made to review the application prior to acceptance. Please call (240) 487-3538 to schedule an appointment. The following items must accompany the application: 1) an accurate plat or site plan drawn to scale that, includes all existing structures, driveway and additions; 2) filing fee or financial hardship waiver request.

OWNER INFORMATION

Name of Property Owner (s)

Beatriz Gamez

Beatriz Gamez

Address of Property

5002 Indian Ln College Park MD

20740

Do you reside in the property?

☒

Yes

☐

No

If no, provide home address

Telephone

(301) 658-8850

Fax

E-mail

Beatriz Perez 601 aguilera
can

Name of Agent/Representative (if any)

Address

Telephone

Have you applied for and been denied a permit?

☐

Yes

☐

No

Received a permit
from county. Does not
meet city

Have you received a violation notice?

☒

Yes

☐

No

If yes, date of notice

Has property been the subject of a previous appeal or zoning application?

☐

Yes

☒

No

fence
ordinance

If yes, provide case number(s) and dates

Do you require an interpreter?

☐

Yes

☒

No

DESCRIPTION OF PROPERTY

Subdivision

Daniels Park

Lot

18, 19, 20 + 21

Block

19

Parcel

—

Zoning

R-55

Total Area (Sq ft)

Civic Association Name

VARIANCE REQUEST

List each required variance on a separate line and cite the section of the Fence Ordinance from which the variance is requested.

1) 6' fence in front yard

2)

3)

4)

PURPOSE OF VARIANCE

Describe what you propose to do and why you need a variance.

County approved 6' fence in side/front yard. Was installed prior to getting city permit

IN ORDER FOR A VARIANCE TO BE GRANTED, ALL OF THE FOLLOWING CRITERIA MUST BE MET. PLEASE INDICATE HOW YOU COMPLY WITH EACH OF THESE.

Criteria #1. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions or other extraordinary situations or conditions that would support the request for a variance. (Describe any special conditions and/or circumstances which are peculiar or unique to the property and, that are not characteristic of other property in the neighborhood.) Peculiar circumstance;

County issued permit in error
Very busy street, lack of privacy,
want fence for privacy, security,
Indian lane is heavily trafficked.

Criteria #2. Denial of the variance would result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship upon the owner. *(The property owner is deprived of property rights commonly enjoyed by neighboring property owners because of the property's unusual features or conditions). Hardship cannot be self-imposed.*

Already paid \$2500 to fence contractor
This would create an unnecessary hardship.

Criteria #3. Granting the variance will not impair the intent, purpose or integrity of the Fence Ordinance. *(Granting of the variance will not be in conflict with the public interest as requested in these plans).*

Will not impair intent of fence ordinance.
Neighbors have similar fences.

Criteria #4. The variance is consistent with the design guidelines adopted for the Historic District, if applicable. *(The Design Guidelines for the Old Town College Park Historic District provide guidance on fence materials, design and placement).*

N/A

Criteria #5. The front yard fence for which a variance is requested incorporates openness as much as practicable; provided, however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood.

Not an open fence but gaps because owner has a German sheppard + a Lab, very large dogs. Want to protect dogs from hostile dogs. Had bad experience with her dogs being attacked.

NAMES & MAILING ADDRESSES OF ALL ADJOINING PROPERTY OWNERS

(These include properties located on either side, behind and across the street from your property).

5006 Indian Ln	Judith Campbell	4601 Beechwood Rd., College Park, Md 20740
Property Address	Owner's Name	Owner's Address
5000 Indian Ln	Eugene Eyoano ETAL	Same
Property Address	Owner's Name	Owner's Address
5001 Indian Ln	William C. Clark	Same
Property Address	Owner's Name	Owner's Address
5005 Indian Ln	Myrna Vaughn	Same
Property Address	Owner's Name	Owner's Address
5005 Fox St.	Francis & Philomena Brillante	Same
Property Address	Owner's Name	Owner's Address

Batiz Pungang
Signature of Applicant (Required)

10-7-21
Date

Signature of Applicant (Required)

Date

Other neighborhood fences taken by applicant





1. This plan is a benefit to a consumer lender as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Surveying time and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.

Notes

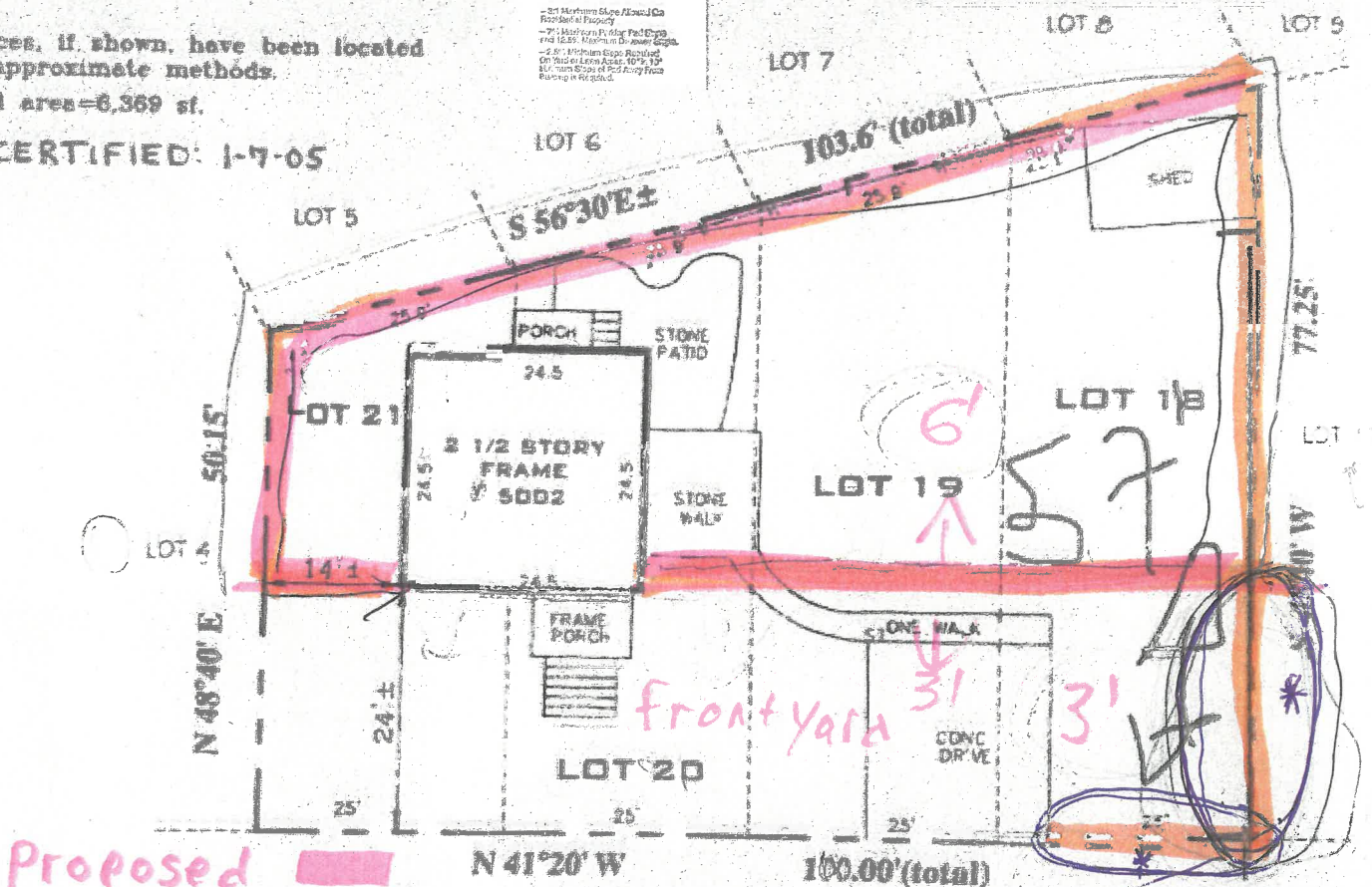
1. Flood zone "C" per H.U.D. panel No. 245208-0015D.
2. Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 2 Feet.
3. Fences, if shown, have been located by approximate methods.
Total area=6,369 sf.
4. RECERTIFIED: 1-7-05

Approved for Sales, Grading and Driveways
By: [Signature]
Date: 8/13/2021
Permit: 626822-2021-05

2nd Maryland State Flood Co.
Registered in Maryland
2nd Maryland State Flood Co.
and 12.5% Flood Insurance Co.
2nd Maryland State Flood Co.
and 12.5% Flood Insurance Co.
2nd Maryland State Flood Co.
and 12.5% Flood Insurance Co.
2nd Maryland State Flood Co.
and 12.5% Flood Insurance Co.

THE MARYLAND-NATIONAL CAPITAL PARK AND
Prince George's County Planning Department
APPROVED

Permit #: 26822-2021-05
Date: 8/9/2021
Approved by: Tracy Samuels
Limitations:
ok for 6' fence



Proposed
Erected

LOCATION DRAWING
LOTS 18, 19, 20 & 21, BLOCK 19
THE ADDITION TO
DANIELS' PARK
PRINCE GEORGES COUNTY, MARYLAND

INDIAN LANE
COUNTY ROAD/PER PLAT
130' R/W

Permit 4428

City
allows
fence to
be 3' but
22' 15 6'

SURVEYOR'S CERTIFICATE

THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION.

Jeffrey A. Fortin

MARYLAND PROPERTY LINE SURVEYOR REG. NO. 581

REFERENCES

PLAT BK 1
PLAT NO. 132
LIBER
FOLIO



SNIDER & ASSOCIATES
SURVEYORS - ENGINEERS
LAND PLANNING CONSULTANTS
2 Professional Drive, Suite 216
Gaithersburg, Maryland 20878
301-948-5100, Fax 301-948-4288

DATE OF LOCATIONS
WALL CHECK
HSE. LOC. 11-23-2003
SCALE: 1"=20'
DRAWN BY: F
JOB NO. 2003-0223



CITY OF COLLEGE PARK

NOTICE

Department of Public Services

8400 Baltimore Ave, Suite 375, College Park, MD 20740 | T.240.487.3570 | F.301.220.1172
 publicservices@collegeparkmd.gov | www.collegeparkmd.gov

Property Owner/Agent:
 GAMEZ, BEATRIZ
 5002 INDIAN LN
 COLLEGE PARK, MD 20740

Date of Notice:	09/21/2021	Case Number: ENF-2021-01198
Subject Property:	5002 INDIAN LN	
Initial Violation Date:	09/21/2021	
Date of this Violation:	09/21/2021	
Violation Description:	Construction of fence without County and City permit.	
Corrective Action Required:	Remove fence or obtain County and City Permits.	
Code Description:	87-3(A) Building Permit(City and County) Required	
Reinspection Date:	10/04/2021	

The cited section of the Code requires that the violation be fully corrected on or before the reinspection date noted. The City Code specifies periods for compliance, which may vary by chapter and makes provisions for the issuance of civil citations carrying fines between \$25.00 and \$1,000.00 for every period of non-compliance. The entire City Code may be viewed at <http://ecode.com/CO0032>.

Please note that Chapters 125, 141, and 190 allow for the immediate issuance of a municipal infraction citation within a 12-month period or calendar year for any repeat violations after this first notice.

You may have the right to appeal this notice to the City's Advisory Planning Commission, provided that a written appeal is received at the Department of Public Services within (10) business days from the date of this notice.

It is our goal to work with residents to meet compliance in a timely manner. Contact us at 240.487.3570 or by email to publicservices@collegeparkmd.gov, should you have any questions or concerns regarding this notice.

Issuing Officer: Carlos Parada, 249

Issuing Officer: Carlos Parada, 249

Exhibit 4. Vicinity Map

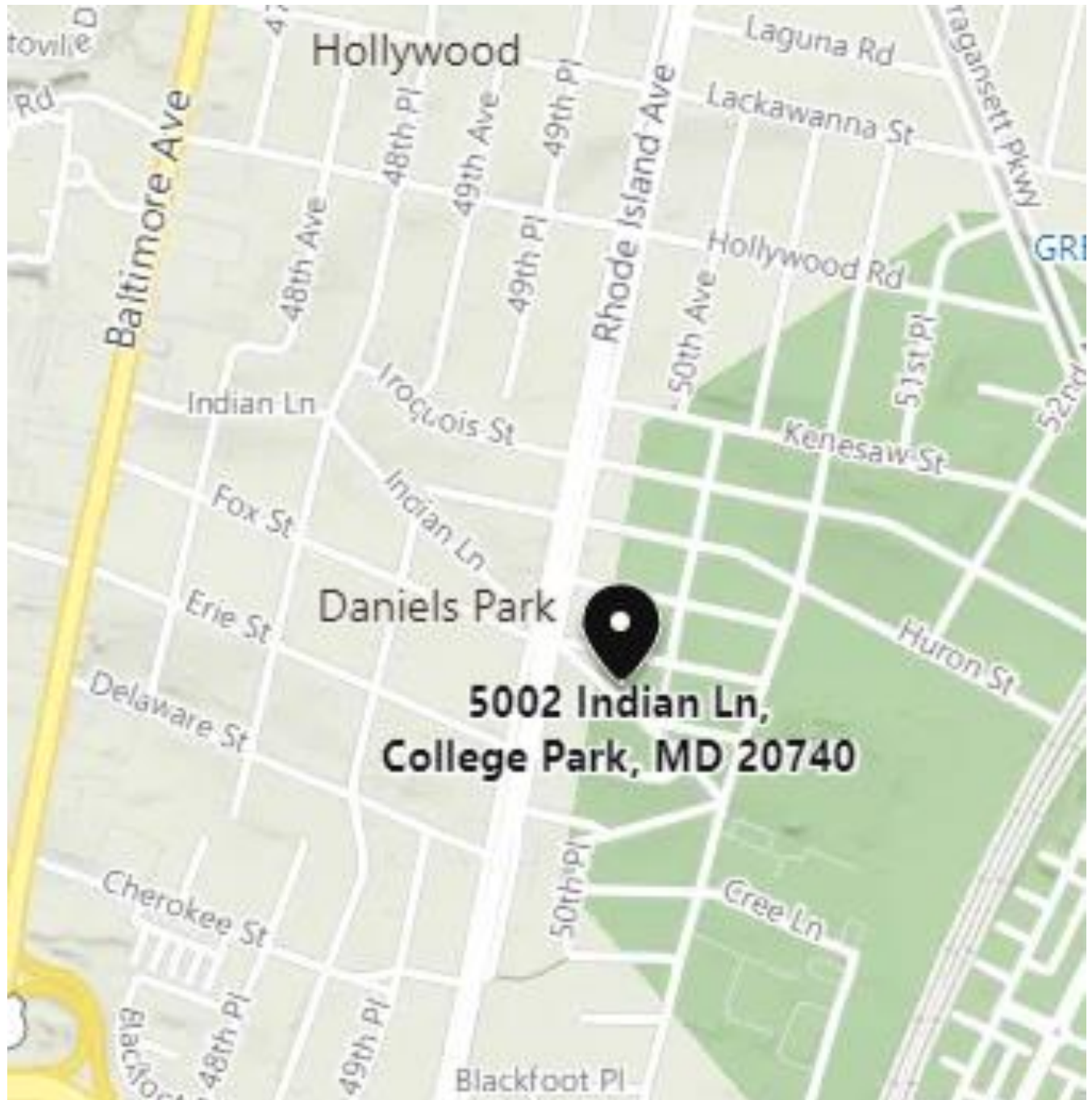


Exhibit 5. Zoning and Building Footprint Map

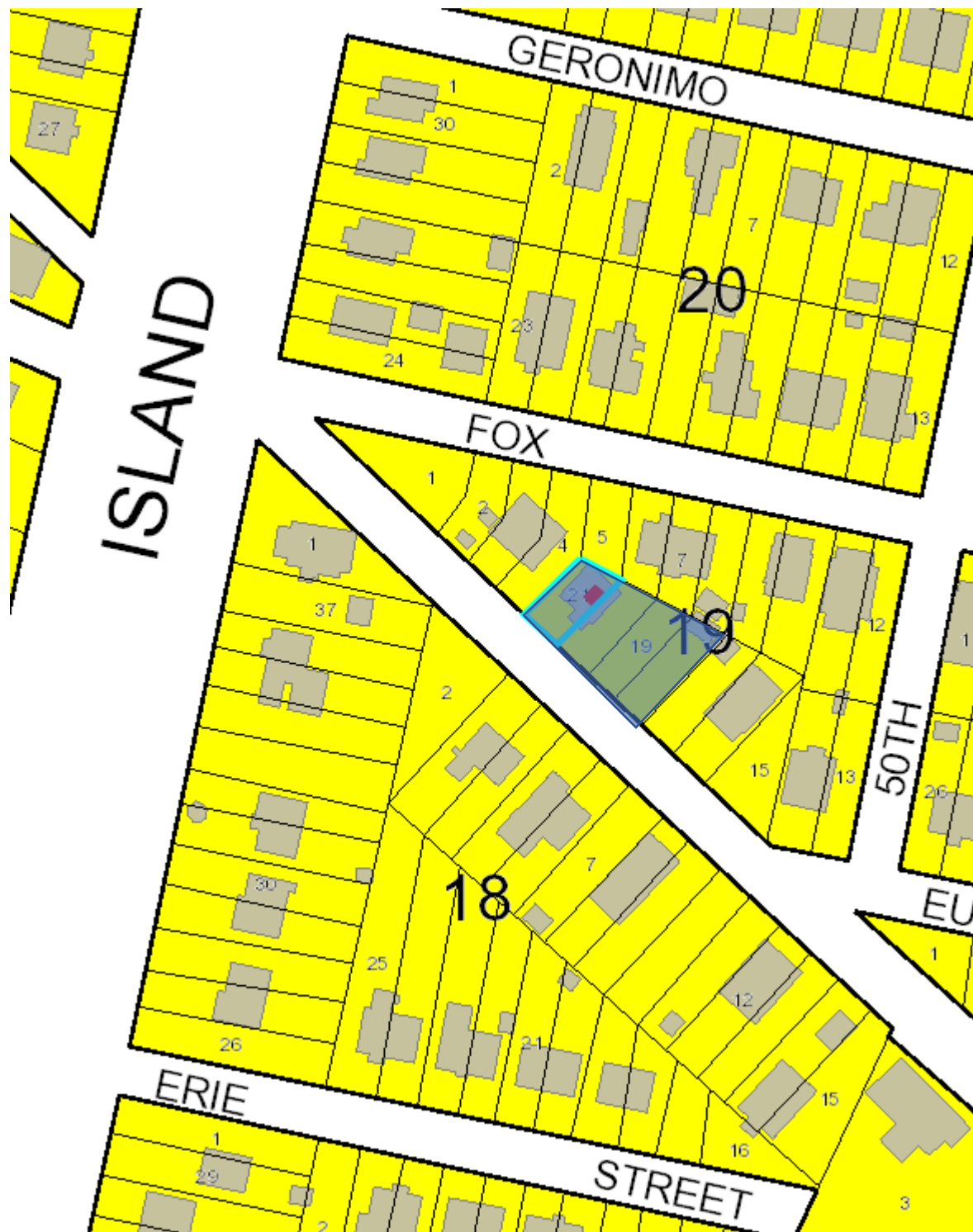


EXHIBIT 6: Staff Photos



A: 5002 Indian Lane



B: 6-Foot High, Stockade Front Yard Fence



C: C-Shaped Fence



D: Close-up of fence material

Dear AFC Members,

Thank you for considering the overall impact on an historic hundred-year-old neighborhood when fort-like fences are installed around small properties to form enclosed compounds.

The homeowners at 5002 Indian Lane have expressed the need for a fence to keep the children at the school bus stop out of their yard. Councilman Kabir has now asked our school board representative to move the bus stop to a safer location, since traffic speed on this block makes it unsafe for kids to wait for the bus. The homeowners also own a small dog which a much shorter fence could contain.

The solid wall fence that has been constructed (and especially with the posted 'no trespassing' sign) invokes a feeling of an unsafe area. With multiple cars parked in the yard the feeling is of an auto storage lot. This kind of compound fencing can be used to conceal activities or to exclude miscreants, but as enclosures they are inappropriate on a block of small family homes on small lots since it does the opposite of neighborhood building. It screams keep out you bad people! Or don't look in here, nothing to see! It invokes fear that we have a high crime city. Perhaps property values will decrease. We had one neighbor draining his sump into his back yard for years, causing major mosquito problems. We couldn't use our yards for 6 months each year. He recently moved. If there were a tall solid fence, we never would've seen that to have it remedied when the new owner was placing a longer drainpipe up to the edge of the property line. This is the first year in many that neighbors could sit outside in the summer, daytime or night.

The impact of this new wall on the house and yard at 5006 Indian Lane is significant. The current 6 foot solid divider between gardens is a safety hazard, as it increases the risk of an automobile accident mid-block due to limited visibility to and from the driveway at 5006 Indian Lane. It blocks air and sunlight to a previously sunny yard. It blocks garden sight lines from windows that we had enjoyed since 1981. It changes the feeling of my home, making it feel isolated. These walls are usually used to block out motels or apartments or highways.

This block was very close knit in the 80s. Then as folks moved and died, we became a loosely knit friendly block, where neighbors help each other in time of need. Now it seems that we will be a divided bunch of strangers. This is so very sad to me.

On Indian Lane between Baltimore Blvd. and Davis Hall there are at least 20 privacy fences. Many are in back yards, but some prominent fences enclose side yards like this one. At least one on the block allowed a single-family home to be used as a multiple family home. Fences can change the character of the whole neighborhood. For instance, there is a chain link removal program in College Park. As a city we need to consider a 'privacy' fence program as well. These are not the fences that friends share a cup of coffee over.

It would also be appropriate if there were notices to neighbors prior to the installation of all fences in the city, as it seems that neighbors who expect to receive negative feedback often do not discuss their plans with those that they will impact. This is the second time that this has happened to me in College Park in the last few years. I had no idea that this wall was going up until one late Saturday evening when I was cutting grass and the installation happened. I was and continue to be totally shocked. This issue has created instant animosity, unfortunately.

I am asking that you recommend denial of a variance in this case, removal of the fence back to the front corner of the house to allow sight from my driveway and a lower height for this wall, since there are so many negative effects to the side yard of my house. This is not a back yard fence. Back yards are behind houses.

Thank you very much,

Judy Campbell

5006 Indian Lane

240-277-4283

Theresheia Williams

From: Jonathan Berrios <jberrios10@gmail.com>
Sent: Sunday, October 24, 2021 9:55 PM
To: Miriam Bader
Subject: 5002 Fence

Categories: Reference

I am writing this email to let you know that I am in acceptance of Ms. Beatriz Gamez to keep her fence, my name is Myrna Simpson ,my address is 5005 Indian Ln college park . My cellphone is (301)768-1695. Please call me if you have any questions regarding this information. I was really happy that she had her fence, it looked so beautiful.I don't have email but please feel free to call me thank you, Myrna Simpson.

Theresheia Williams

From: William Clark <wcclark@dematha.org>
Sent: Monday, October 25, 2021 6:19 PM
To: Miriam Bader
Subject: Fence at 5000 to Indian Lane

Categories: Reference

Dear Ms. Bader,

My neighbor, Beatrix Gamez, has asked me to write to you about the fence that has been installed on her property across the street from me. She lives at 5002 Indian Ln., College Park and I live at 5001 Indian Ln., College Park.

I have no problem with the fence being there.

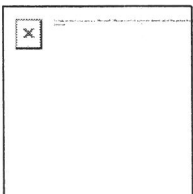
Please let me know if you need further information from me.

Sincerely,

William C. Clark
Assistant Principal
DeMatha Catholic High School

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William C. Clark
Assistant Principal
DeMatha Catholic High School
Phone: 240-764-2207
Fax: 240-764-2275



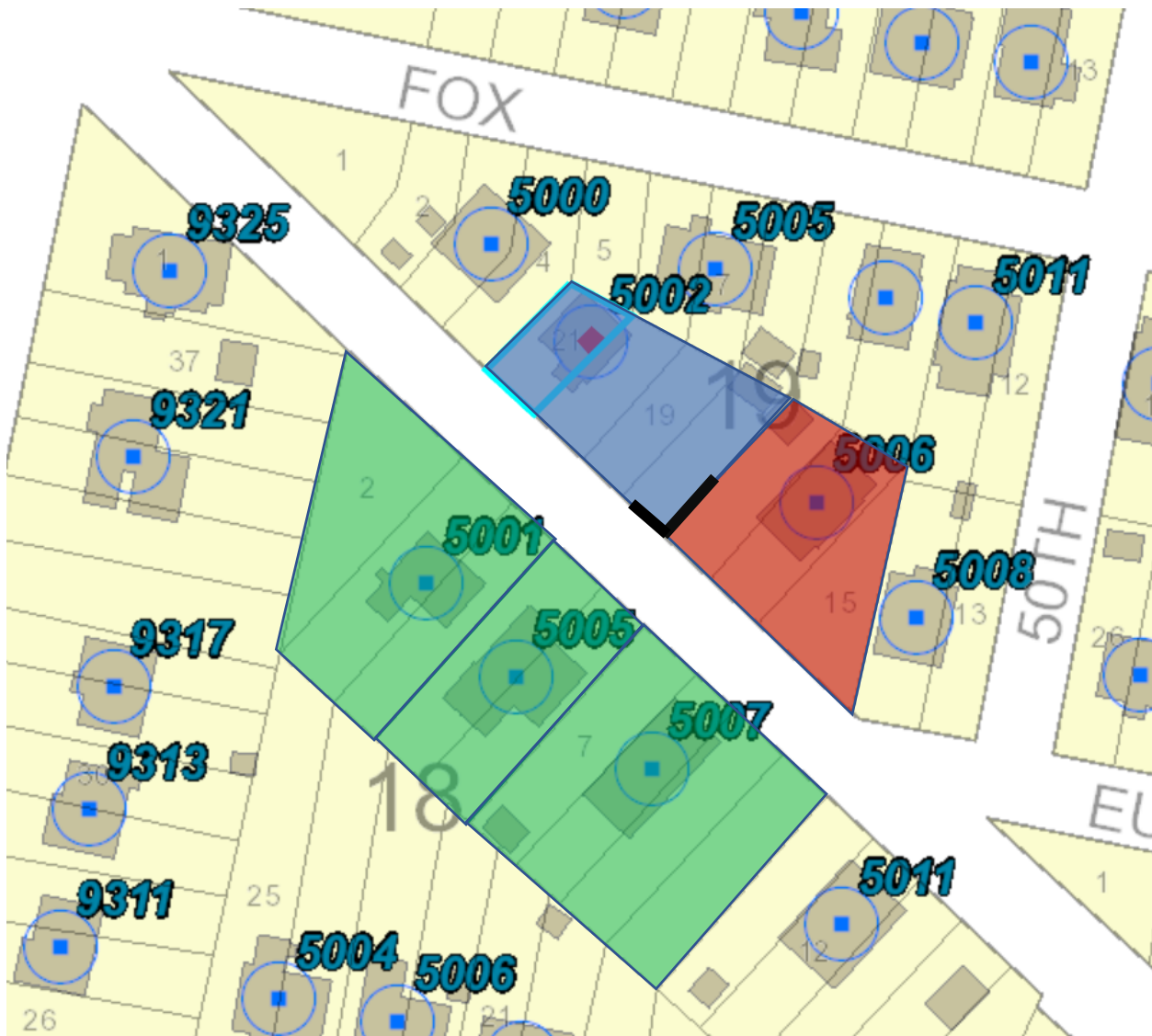
Theresheia Williams

From: magaly santos-estrada <magalysantos2@hotmail.com>
Sent: Monday, October 25, 2021 9:20 PM
To: Miriam Bader
Subject: Fence for beatriz





Categories: Reference

Hello this is Magaly Santos. I am writing to let you know that I have no issues with Beatriz Gomez making her fence at 5002 Indian Ln College park MD. Sent from my iPhone

Exhibit 7e. Properties that Support and Oppose Fence



Key

-  Subject Property
-  Support Fence
-  Oppose Fence
-  Front Yard Fence